

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

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RADIO TELEVISION OF SERBIA, DUSAN VOJVODIC, AND)
MILINA TRISIC) C.A. No. 17-cv-6886
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Plaintiffs,)
-----) COMPLAINT
v.)
-----)
VICE MEDIA LLC,)
-----)
Defendant.)
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Radio Television of Serbia ("RTS"), Dusan Vojvodic ("Vojvodic") and Milina Trisic ("Trisic" and together with RTS and Vojvodic, "Plaintiffs"), by their attorneys, Lebowitz Law Office, LLC, bring this complaint against Vice Media LLC ("Vice" or "Defendant"), and allege as follows:

NATURE OF ACTION

1. This case concerns Defendant's intentional, unauthorized, and continued use of multiple segments from Plaintiffs' copyrighted documentary film in violation of U.S. and foreign copyright laws. Defendant has used, and continues to use, segments lifted and copied from Plaintiffs' documentary film and edited directly into defendant's own film. Defendant has uploaded its infringing film to its channels on YouTube, and made the infringing film available for continuous viewing on the internet in this District and around the world. This conduct persists despite Defendant having no authorization from Plaintiffs to use its copyright protected film -- and despite

Plaintiffs repeated demands that Defendant cease and desist from such conduct.

2. Plaintiffs bring this action against Defendant for direct copyright infringement of Plaintiffs' copyrights in violation of the Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the "Copyright Act"), the Berne Convention for the Protection of Literary and Artistic Works (the "Berne Convention"), as adopted by the Copyright Act, and in violation of the copyright laws of at minimum, the twenty-one (21) foreign countries identified below, where Defendant also violated Plaintiffs' copyrights by broadcasting Defendant's infringing film, within these countries (the "Foreign Copyright Laws"). Plaintiffs seek damages for Defendant's infringements and an injunction to prevent further unlawful use.

PARTIES

3. Plaintiff RTS is organized and existing pursuant to the laws of the Republic of Serbia, and is the public broadcaster in the Republic of Serbia. RTS broadcasts and produces news, drama, and sports programming through radio, television and the Internet.

4. Plaintiff Vojvodic is a citizen of the Republic of Serbia, and has been employed with RTS since 1998 as a journalist and correspondent department editor, and is the author and editor of numerous documentary movies, films and series which were produced and broadcast on RTS.

5. Plaintiff Trisic is a citizen of the Republic of Serbia, and has been employed with RTS since 2004 as a journalist and editor,

and has worked as an author and editor of numerous documentary, short movies and TV movies and series which were produced and broadcast on RTS.

6. Upon information and belief, defendant Vice is a Delaware limited liability company, which conducts business in the United States and globally, from its headquarters in Williamsburg, New York. Vice is a digital media and broadcasting company which develops youth and young adult focused digital programming.

JURISDICTION AND VENUE

7. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. § 1331, insofar as it raises questions under the law and treaties of the United States.

8. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a) insofar as this is a civil action against Defendant for their acts of copyright infringement in violation of the United States Copyright Act, 17 U.S.C. §§ 101 et seq.

9. Defendant is subject to personal jurisdiction of this Court and venue is proper in this District under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a) in that the acts of infringement complained of herein occurred in this Judicial District and the Defendant resides, may be found and/or transacts business in this District.

FACTUAL BACKGROUND

Plaintiffs' Copyright

10. Pink Panteri, the documentary film ("Pink Panteri") is a documentary movie on the exploits of the "Pink Panthers" - the infamous, international jewel thief network, which arose in the aftermath of the breakup of the former Yugoslavia, and is comprised of Serbs from the Balkans - Serbia, Montenegro, Bosnia, and Croatia. The Pink Panthers, so named by Interpol, were responsible for some of the most coordinated, daring and high-profile jewelry heists which have taken place in multiple countries across Europe, and across continents, and which have totaled several hundreds of millions of dollars in stolen jewels.

11. Pink Panteri is comprised of two parts, 43 minutes each, and was broadcast for the first time in February 2011 on RTS. Pink Panteri represents the most viewed documentary film ever broadcast on the national public service Radio Television of Serbia.

12. Plaintiff Vojvodic is the editor, screenwriter and co-director of Pink Panteri.

13. Plaintiff Trisic is the co-director and film editor of Pink Panteri.

14. Plaintiff RTS is the producer, distributor, and broadcaster of Pink Panteri.

15. Pink Panteri was a product of plaintiff Vojvodic's comprehensive and in-depth research into the Pink Panther's gang

operations, which he conducted over the course of two-years (2009 – 2011), and across multiple cities (Belgrade, Lyon, Paris and London).

16. In addition to exclusive interviews with Interpol, members of the special French police force and various security services, plaintiff Vojvodic also obtained from these same sources, copies of security video recordings of actual Pink Panther robberies, previously unreleased to members of the media, and never before seen by members of the general viewing public.

17. Plaintiffs Vojvodic and Trisec reviewed these security tapes, carefully selected scenes from some of the Pink Panthers' actual robberies, and then filmed, directed and edited documentary style re-enactments of these actual robberies, for inclusion in Pink Panteri (the "Re-Enactments").

18. The Re-Enactments were the most expensive elements in Pink Panteri. The Re-Enactments were filmed in real-time, and according to the Pink Panthers' exacting standards, requiring extended direction, filming and editing, and took over 20 days for preparations and filming. A jewelry shop was re-recreated on a rented premises, glass and other props were broken several times during filming, and the production crew alone had over 50 people.

19. Pink Panteri can be viewed, on demand, on the official website of RTS, at the following URL:

[http://www.rts.rs/page/tv/sr/story/20/RTS+1/854364/Pink+panteri+\(drugi+deo\).html](http://www.rts.rs/page/tv/sr/story/20/RTS+1/854364/Pink+panteri+(drugi+deo).html).

20. Pink Panteri prominently includes a watermark, displayed for the entirety of the movie, and which provides a © notice that Pink Panteri is copyright protected.

21. Furthermore, the RTS website provides a summary of Pink Panteri, including the work which went into creating the movie: a description of duration and methods used to collect the source material, including the security video of real Pink Panthers' robberies, and the documentary style Re-Enactments of actual Pink Panthers' robberies (the "RTS Summary").

22. In the RTS Summary, Plaintiffs Vodvojac is identified as the screenwriter, editor and director of Pink Panteri, and Trisic is identified as editor and director.

23. In the closing credits for Pink Panteri, Plaintiffs Vodvojac is identified as the screenwriter, editor and director of Pink Panteri, and Trisic is identified as editor and director.

24. Plaintiffs were all citizens of the Republic of Serbia on the date Pink Panteri was first created and first published. Serbia and the United States are both signatories to the Berne Convention. As citizens of a signatory to the Berne Convention, Plaintiffs are entitled to the same copyright protections that the Copyright Act and the Foreign Copyright Laws provide to citizens of those respective countries. Further, pursuant to the Berne Convention, Plaintiffs are not required to obtain copyright registration for their copyrighted work - Pink Panteri - from the United States Copyright Office or any other copyright office where defendant Vice is located or broadcasts

its content, prior to commencing legal action for copyright infringement under the Copyright Act or the Foreign Copyright Laws.

25. The copyright law of the Republic of Serbia is set forth in The Law of Copyright and Related Rights (Official Gazette of RS 104/2009, 99/2011 from 27.12.2011 and 119/2012) ("Copyright Law of Serbia").

26. Pursuant to Article 8 of the Copyright Law of Serbia, Plaintiffs Vojvodovic and Trisic, as the authors of Pink Panteri, held the moral and pecuniary rights in Pink Panteri since the moment it was created.

27. Plaintiffs Vojvodovic and Trisic were both employed by RTS at the time they created Pink Panteri, and at the time Pink Panteri was first published or broadcast on RTS in 2011.

28. As Pink Panteri was a work of authorships created by Plaintiffs Vojvodovic and Trisic while employees of RTS, then pursuant to Article 98 of the Copyright Law of Serbia, RTS held the pecuniary rights to the exploitation of Pink Panteri for the period of five years from the completion of that work.

29. Pursuant to a provision in the employment agreements of Plaintiffs Vojvodovic and Trisic, the pecuniary rights in the Pink Panteri was extended to fifty years from the date of its completion.

30. Together Plaintiffs RTS, Vovodic and Trisic own all of the collective pecuniary and moral rights in Pink Panteri which exist under the Copyright Law of Serbia, from the date Pink Panteri was created.

31. As set forth in Articles 19 to 36 of the Serbian Copyright Law, Plaintiffs' pecuniary rights in Pink Panteri includes, but is not limited to, the exclusive rights:

- a. to commercial exploitation of Pink Panteri, including any work resulting from a modification of Pink Panteri (Article 19);
- b. to remuneration for the exploitation of Pink Panteri by any other person(s) not authorized by law or contract to exploit Pink Panteri (Article 19);
- c. to authorize or prohibit fixation or reproduction of Pink Panteri, in any manner, shape or form (Article 20);
- d. to place in circulation copies of Pink Panteri (Article 21);
- e. to permit or prohibit the broadcasting of Pink Panteri by wire or wireless transmission of radio or television signals intended for public reception (Article 28);
- f. to permit or prohibit the re-broadcasting of Pink Panteri (Article 29);
- g. to permit or prohibit communication of Pink Panteri to the public by wire or wireless means, including on demand (Article 30); and
- h. to permit or prohibit the broadcast or re-broadcast of Pink Panteri, simultaneously to an audience found in public places, such as train stations, restaurants, waiting rooms, etc.

Defendant's Violation of Plaintiffs' Copyright

32. Vice is a global youth media company operating an original online video destination from its online portal, Vice.com, as well as an international network of digital channels, a television production studio, a magazine, a record label, an in-house creative services agency and a book-publishing division.

33. Vice's digital channels include The Creators Project,

dedicated to the arts and creativity, Motherboard, covering cultural happenings in technology, and Noisey, a music discovery channel.

34. Vice broadcasts original English language content from servers located in the United States, to viewers located in this District and around the globe, from its YouTube channel found at <https://www.youtube.com/user/vice> ("Vice Channel").

35. Vice also broadcasts translated, sub-titled or overdubbed foreign language versions of its original English language content, from those same servers within the United States, to targeted Vice communities around the globe, including:

- a. Vice Japan (<http://jp.vice.com/>) ;
- b. Vice Australia (https://www.vice.com/en_au) ;
- c. Vice Belgium (<https://www.vice.com/be>) ;
- d. Vice Brazil (https://www.vice.com/pt_br) ;
- e. Vice Canada (https://www.vice.com/en_ca) ;
- f. Vice Czechoslovakia (<https://www.vice.com/cs>) ;
- g. Vice Columbia (https://www.vice.com/es_co) ;
- h. Vice Denmark (<https://www.vice.com/da>) ;
- i. Vice Spain (<https://www.vice.com/es>) ;
- j. Vice France, (<https://www.vice.com/fr>) ;
- k. Vice Greece (<https://www.vice.com/gr>) ;
- l. Vice Italy (<https://www.vice.com/it>) ;
- m. Vice Mexico (https://www.vice.com/es_mx) ;
- n. Vice Netherlands (<https://www.vice.com/nl>) ;
- o. Vice Sweden (<https://www.vice.com/sv>) ;
- p. Vice Austria (https://www.vice.com/de_at) ;

q. Vice Romania (<https://www.vice.com/pl>);
r. Vice Portugal (<https://www.vice.com/pt>);
s. Vice Russia (<https://www.vice.com/ru>); and
t. Vice United Kingdom (https://www.vice.com/en_uk).

(collectively, the "Vice Foreign Channels").

36. In September 2014, Vice broadcast an advertisement included excerpts of the documentary films scheduled to appear in the upcoming season 2 of "Vice Reports – documentary films" (the "Vice Reports Trailer").

37. The Vice Reports Trailer can be viewed at the following link on the Vice Channel:

<https://www.youtube.com/watch?v=1Lqwrj2PPB0>.

38. The Vice Reports Trailer contains an excerpt from the soon to be broadcast Vice documentary on the Pink Panthers titled "Europe's Most Notorious Jewel Thieves: VICE Reports" (the "Vice Movie"). (See Exhibit A.)

39. Near the conclusion of the Vice Reports Trailer there is a pop-up link with the instruction to "Click to watch the Pink Panther jewel gang in Episode 1". (See Exhibit B.)

40. The description below the Vice Reports Trailer states:

The new season of VICE Reports has begun, and it's about to blow everyone's collective minds. Watch Episode 1 now on VICE.com: <http://bit.ly/1Bn96IU>

There's a lot of wild, crazy, and terrifying stuff out there in the world. In our second season of VICE Reports, we'll take you to the front lines to see the faces of those directly affected. We travel with the Pink Panther jewel thieves as they heist diamonds all across Europe...

(See Exhibit C.)

41. In September 2014, Vice broadcast the Vice Movie on the "Vice Channel."

42. On Vice.com, the heading "These are Pink Panthers, the Balkan Diamond Thieves", provided a link to the Vice Movie on the Vice Channel.

43. The Vice Movie was extensively promoted by Vice on all of its social media platforms, including Twitter, Facebook, and Instagram. (See Exhibit D.)

44. The Vice Movie included multiple, unauthorized takings and copying of copyrighted portions of Pink Panteri. Vice's unauthorized taking included the wholesale copying of extended segments of Pink Panteri, including the documentary style Re-Enactments of Pink Panthers' robberies.

45. Examples of the documentary Re-Enactments which Vice impermissibly copied from Pink Panteri for inclusion in the Vice Movie can be seen in the side by side comparison of still images from each movie, as shown in attached Exhibits E, F, G, H and I.

46. Vice also copied the documentary surveillance recordings of Pink Panthers' robberies which were collected during Vodvojic's two-year period of research on Pink Panteri, and which are exclusive to Pink Panteri.

47. The total duration of all copied parts from Pink Panteri for inclusion in the Vice Movie is nearly half a minute.

48. Upon information and belief, Vice's unauthorized copying of the protected elements of Pink Panteri occurred within the United States.

49. Upon information and belief, Vice uploaded the Vice Movie - containing Plaintiffs' copyrighted content - to the Vice Channel, for broadcast and distribution within this District and around the globe.

50. Upon information and belief, Vice also uploaded the Vice Movie - containing Plaintiffs' copyrighted content - to the Vice Foreign Channels, for broadcast and distribution within this District and around the globe.

51. Upon information and belief, the Vice Channel and Vice Foreign Channels are hosted on the servers of YouTube, which are located in the United States.

52. Upon information and belief, the Vice Channel and Vice Foreign Channel broadcast the Vice Movie to, among other countries, Serbia, Japan, Australia, Belgium, Brazil, Canada, Czechoslovakia, Columbia, Denmark, Spain, France, Greece, Italy, Mexico, Netherlands, Sweden, Austria, Romania, Portugal, Russia, and United Kingdom.

Plaintiffs Prior Claims of Infringement

53. In or about December 2015, Plaintiffs, through counsel, advised Vice that their broadcasts of portions of Plaintiffs copyrighted Pink Panteri within the Vice Movie constituted copyright infringement, and demanded compensation for Defendant's unauthorized use, as well as proper attribution for Plaintiff Vojvodic and Trisic, as authors of Pink Panteri.

54. The General Counsel for Vice responded directly to Plaintiffs' Serbian Counsel, but the parties were unable to reach an agreement.

55. The parties entered into a tolling agreement, effective September 26, 2017 (the "Tolling Agreement"). A copy of the Tolling Agreement is annexed as Exhibit J.

56. The Tolling Agreement provides in pertinent part:

All statutes of limitation, similar limitations periods, notice periods, and any purported defenses based upon the passage of time including, without limitation, waiver, laches and estoppel with respect to any claims, causes of action, demands, rights, actions, suits, or proceedings arising from, relating to, or concerning the copyright Claimants claims with respect to Vice's alleged use and incorporation of portions of the entitled "Pink Panthers" are tolled and suspended as of, and shall cease to run from, the Effect Date hereof, to and including November 26, 2017 (the "Tolling Period").

57. Vice continues to broadcast the Vice Movie, in three (3) parts, on its Vice Japan channel, found here (https://www.youtube.com/watch?v=XzxosB9d12E&index=1&list=PLyheH-sHmeaN-vSYcX4Dy8HzvFnd_I4iY) ; here (https://www.youtube.com/watch?v=mG_JDEWNAcM&list=PLyheH-sHmeaN-vSYcX4Dy8HzvFnd_I4iY&index=2) ; and here (<http://jp.vice.com/news/europees-most-notorious-jewel-thieves-3>). See Exhibit K)

58. Additionally, Vice continues to broadcast the Vice Movie on its Vice Russian language channel, located at <https://www.youtube.com/watch?v=2NBZ5EnPMrY>. (See Exhibit L)

59. Upon information and belief, Vice continues to broadcast the Vice Movie on other Foreign Vice Channels, and possibly other outlets.

60. Portions of Pink Panteri are still being broadcast for advertising purposes and are incorporated into the Vice Reports

(Trailer), which can be found at:

<https://www.youtube.com/watch?v=1Lqwrj2PPB0>.

Count I

(COPYRIGHT INFRINGEMENT IN VIOLATION OF THE
UNITED STATES COPYRIGHT ACT)

61. Plaintiffs repeat and reallege all of the prior allegations.

62. Defendant Vice copied and broadcast copyright protected elements of Plaintiffs' Pink Panteri without Plaintiffs consent or authorization.

63. Defendant Vice knew or had reason to know that: (i) Plaintiff's Pink Panteri was protected by the Copyright Act; (ii) Defendant was not authorized to copy or broadcast elements from Plaintiffs copyright protected Pink Panteri without Plaintiffs' consent; (iii) Defendant did not have Plaintiffs' consent to copy and broadcast elements of Plaintiffs' copyright protected Pink Panteri; and (iv) Defendant's actions constituted copyright infringement under the Copyright Act.

64. Defendant has knowingly and willfully engaged in unauthorized copying and broadcast of elements of Plaintiffs' Pink Panteri with the intent to wrongfully benefit from the labor and intellectual capital that Plaintiffs invested in the creation of Pink Panteri.

65. Defendant's conduct has caused Plaintiffs to sustain money damages, including but not limited to, loss of revenue, diminution of the value of Pink Panteri, and other money damages.

66. Defendant has been unjustly enriched by its wrongful use of Plaintiffs' Pink Panteri and infringements of Plaintiffs copyrights in an amount to be determined based on information to be provided by Defendant.

67. Defendant's wrongful conduct has also caused Plaintiffs to sustain irreparable injury for which Plaintiffs have no adequate remedy at law.

Count II

(COPYRIGHT INFRINGEMENT IN VIOLATION OF THE
FOREIGN COPYRIGHT LAWS)

68. Plaintiffs repeat and reallege all of the prior allegations.

69. Plaintiffs copyright protected Pink Panteri is protected under Foreign Copyright Laws of countries that are signatories to the Berne Convention.

70. Defendant's actions of broadcasting copies of Plaintiffs' copyright protected Pink Panteri on the Vice Foreign Channels and elsewhere around the globe, without Plaintiffs' authorization or consent, constitutes copyright infringement under the Foreign Copyright Laws, entitling Plaintiffs to injunctive relief and money damages under the Foreign Copyright Laws.

71. Defendant's actions of copying and broadcasting copies of Plaintiffs' copyright protected Pink Panteri without Plaintiffs' authorization or consent is being done knowingly and willfully, with the intent to wrongfully benefit from the labor and intellectual capital that Plaintiffs invested in the creation of Pink Panteri.

72. Defendant's conduct has caused Plaintiffs to sustain money damages, including but not limited to, the loss of revenue, diminution of the value of Pink Panteri and other damages.

73. Defendant has been unjustly enriched by their wrongful use of portions of Plaintiffs' copyright protected Pink Panteri in an amount to be determined.

74. Defendant's wrongful conduct in copying and broadcasting the Vice Movie containing portions of Plaintiffs' copyright protect Pink Panteri has also caused Plaintiffs to sustain irreparable injury for which Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment against all Defendants, jointly and severally, awarding them:

A. Injunctive relief granting the issuance of an order directing defendant to immediately cease broadcast of the Vice Movie and the Vice Reports Trailer, and requiring defendant to refrain from such conduct in the future;

B. Compensatory damages, including but not limited to all damages for loss of revenue, damage to reputation and goodwill, and other losses resulting from the unlawful actions of defendant;

C. Punitive damages for the extreme, outrageous, and willful conduct of defendant;

D. All costs of suit, including reasonable attorneys' fees;

F. Any and all such other relief deemed equitable and just by this Court, as provided by law.

Dated: November 24, 2017
New York, New York

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